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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,052	07/24/2003	Scott Ragsdill	124097.00001	1450

7590

10/04/2006

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EXAMINER
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HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/626,052

Applicant(s)

RAGSDILL, SCOTT

Examiner

Yvonne M. Horton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,6-12,14,15,18-20,22,24-30,32,33 and 36-41 is/are rejected.
- 7) ☒ Claim(s) 2,4,5,13,16,17,21,23,31,34,35 and 42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14, 19 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 14 and 32 recite the limitation "the push-through process" in line 2.

Claim 19 recites the limitation "said floor" in line 3.

There is insufficient antecedent basis for these limitations in the claims.

Regarding claim 36, the phrase "can be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

### ***Claim Rejections - 35 USC § 102***

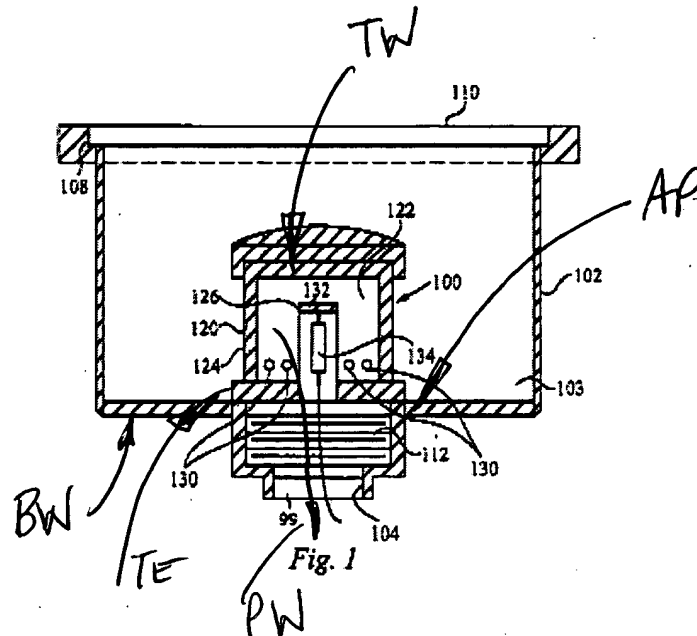
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 14, 15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,719,489 to COLSON. COLSON discloses a drain assembly including a drainage bowl (102) having an inlet (110), a bottom wall (BW),

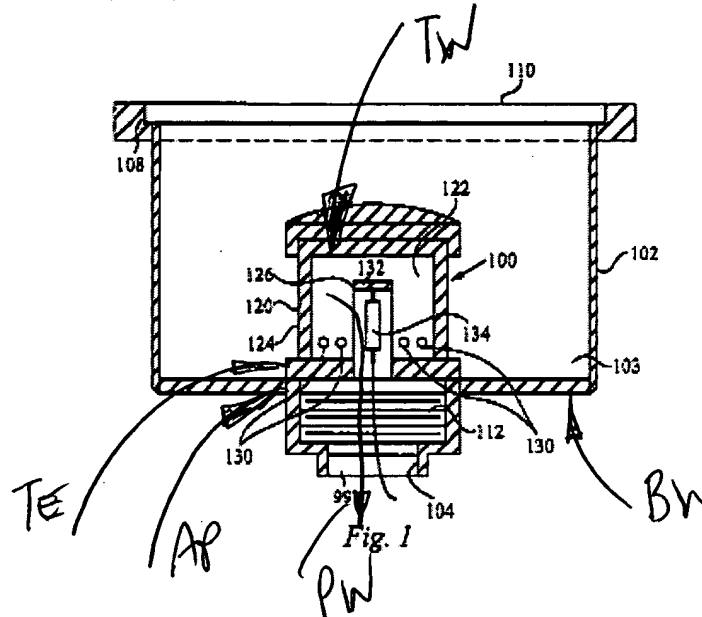
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with an aperture therethrough (AP) and an exit pipe (99) inserted therein such that a terminal end (TE) is disposed within the drainage bowl (102); and a gas trap assembly (100) including a first end (129), second end (128), perpendicular side wall (124) forming a volume (122), a top wall (TW) covering the first end (129) and the second end (128) being open (as at (131), see figure 3), member (132) within the first end (129) of the inner volume (122) that is perpendicular to the side wall (124) and member (126) within the first end (129) of the inner volume (122) that is orthogonal to the top wall (TW); wherein the gas trap assembly (100) is placed within the drainage bowl (102) within the inner top wall (129) over the terminal end (TE) of the pipe (99) such that the member (132) within the inner volume (122) of the gas trap assembly (100) is positioned over the terminal end (TE) of the pipe (99) and the member (126) contacts the terminal end (TE) of the pipe (99), and is disposed at a location to define a passageway (PW) from the drainage bowl (102) into the exit pipe (99). Regarding claim 3, the drainage bowl (102) is the main housing. In reference to claims 14, 15 and

18, the gas trap assembly (100) inherently has weight sufficient to remain secure and effective throughout the "push through process".

Claims 19,20,22,32 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,719,489 to COLSON. In reference to claims 19 and 20,

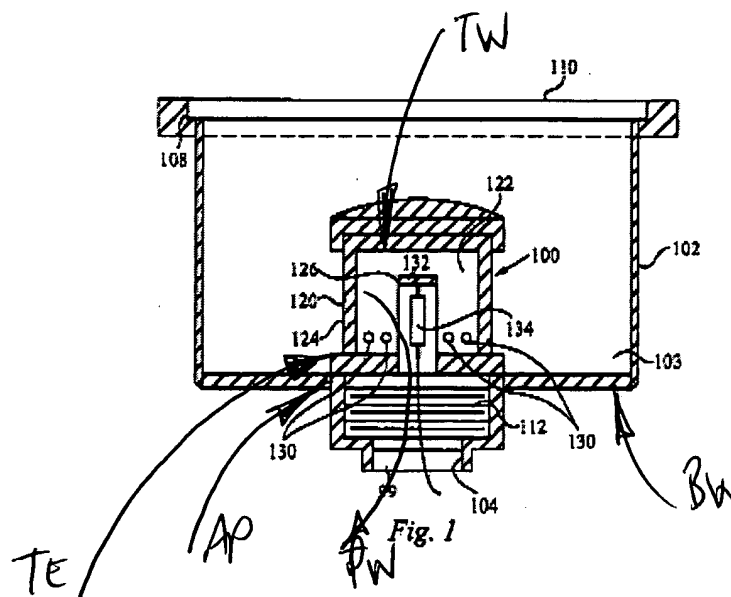


the applicant is reminded that the claims are directed to the floor drain assembly (the subcombination) and does not positively recite the floor or subfloor (the combination), as such, examination relies only upon the subcombination of the drainage assembly alone. COLSON discloses a drain assembly including a drainage bowl (102) having an inlet (110) inherently located adjacent the level of a floor (not shown), a bottom wall (BW), with an aperture therethrough (AP) and an exit pipe (99) inserted therein such that a terminal end (TE) is disposed within the drainage bowl (102); and a gas trap assembly (100) including a first end (129), second end (128), perpendicular side wall (124) forming a volume (122), a top wall (TW) covering the first end (129) and the second end (128) being open (as at (131), see figure 3), member (132) within the first end (129) of the inner volume (122) that is perpendicular to the side wall (124) and

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member (126) within the first end (129) of the inner volume (122) that is orthogonal to the top wall (TW); wherein the gas trap assembly (100) is placed within the drainage bowl (102) within the inner top wall (129) over the terminal end (TE) of the pipe (99) such that the member (132) within the inner volume (122) of the gas trap assembly (100) is positioned over the terminal end (TE) of the pipe (99) and the member (126) contacts the terminal end (TE) of the pipe (99), and is disposed at a location to define a passageway (PW) from the drainage bowl (102) into the exit pipe (99), inherently, to a subfloor/area. Regarding claim 22, the drainage bowl (102) is the main housing. In reference to claims 32 and 33, the gas trap assembly (100) inherently has weight sufficient to remain secure and effective throughout the "push through process".

Claims 36,37 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,719,489 to COLSON. COLSON discloses the use of a gas trap assembly (100) including a first end (129) having a top wall covering (TW), second end (128)



being open (as at 131), side wall (124) coupled to the first end (129) and second end (128) to form a void (122); wherein the gas trap assembly (100) is positioned such that

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the closed end (132) is positioned over a terminal end (TE) of a pipe (99) thereby defining a passageway (PW) for the flow of material.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6-12,24-30 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,719,489 to COLSON. As detailed above, COLSON discloses the basic claimed assembly except for explicitly detailing the material that the assembly is made from. Although COLSON is silent in this regard, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known material suitable for the use intended as an obvious matter of design choice. For instance, if the device is being used in an environment where the materials passing therethrough has the potential to damage or deteriorate the device beyond use, such as acid, perhaps a more durable material such as steel would be fitting. On the

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other hand, if the passing material is not harmful to the function of the device, such as normal waste material, perhaps a plastic assembly would prove effective.

***Allowable Subject Matter***

Claims 2,4,5,13,16,17,21,23,31,34,35 and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

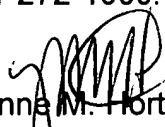
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on (571) 272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Yvonne M. Horton  
Examiner  
Art Unit 3635

09/28/07